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Candace Havens
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MEMORANDUM

DATE: November 7, 2014

TO: Alderman Marcia T. Johnson, Chairman
Members of the Zoning and Planning Committee

FROM: James Freas, Acting Director of Planning and Development

RE: #80-13: THE PLANNING DEPARTMENT requesting update discussions of the zoning reform project.

MEETING DATE: November 10, 2014

CC: Board of Aldermen
Planning and Development Board
Donnalyn Kahn, City Solicitor

1 - Geographic Information System (GIS) data layer as the official Zoning Map

Geographic Information Systems (GIS) is any information system designed to work with geographic data in order to inform decision-making. The key defining factor of GIS data is that it has a geographic component; zoning clearly meets that definition and the City has geocoded (converted the paper map to digital, GIS-enabled data) the Newton zoning map, creating a GIS Data Layer for ease of use in creating maps and performing analysis. Staff is now proposing that this GIS data layer be made the official Zoning Map so as to improve the reliability, accessibility and useability of the map and associated information, both for staff and the general public, and to improve our ability to store, maintain, and track changes over time.

The State Zoning enabling act requires the creation of an official zoning map as a part of the Zoning Ordinance but does not require that it be a paper map. Further, state law only requires that a “true copy” of the map be kept in the Clerk’s Office, not the official map itself (if the digital copy was the official map, a true copy could be created simply by pressing ‘print’). The current Newton Zoning Map was created in 1951 and is maintained and updated as best as can be as a paper map. Some of the challenges presented by the current map include:

- The paper itself is torn, tattered, and faded in places.

- Amendments to the map are necessarily on different sheets of paper requiring a search of multiple pages to determine the zoning of a lot.
- Lot lines, roads, and other features of the base map have changed since 1951 making orientation difficult.

The City has already created a Zoning GIS Data Layer, which is used for the vast majority of zoning related questions. This data layer is not considered the official map though, requiring that the old maps still be consulted for final determination of zoning of a given piece of property. In current practice, an amendment to the ordinance is generated using GIS and then printed for inclusion with the paper zoning ordinance. The advantages of making the GIS Data Layer the official map include:

- Staff, residents, and businesses would be able to verify Zoning online and through mobile devices. The paper maps would no longer be needed for final confirmation of the zoning on a property.
- Many trips to City Hall could be avoided and less staff time would be required to make these determinations.
- More accurate record-keeping of past and future amendments would be possible as this information would become part of the information contained in the data layer – so a person could easily click to find out when a property was zoned or rezoned to its current designation.
- The data layer is more easily maintained than the current map, which is beginning to crumble and become illegible. Paper maps fade, tear, and can otherwise easily be damaged.

From a data integrity standpoint, a digital map is easily protected from intentional or unintentional unauthorized alteration. The data file would be password protected such that only an authorized person can alter the base data – this is currently true of all the City’s data including the GIS data layers. All external and internal viewers of the data layer may only view a “read only” copy of the data. Finally, the existing system for backing –up the City’s data means that, even if a mistake was made with the digital map, the correct version could be easily retrieved. Following every amendment to the map, a printed copy would be signed, stamped and archived.

Making the Zoning GIS Data Layer the official zoning map constitutes a substantive change, but one appropriate to the goal of clarifying and modernizing Newton’s Zoning Ordinance. Staff has begun to verify the GIS data layer in order to ensure that it represents a true copy of the Board’s Zoning Map amendments utilizing the existing official map and archives of past Board actions.

Proposed Text

- A. The districts are indicated on the plans entitled “City of Newton, Massachusetts, Amendments to Zoning Plans,” adopted July 21, 1951, as amended from time to time, and these plans and all explanatory matter on the plans are hereby made a part of this Chapter. All amendments of zoning plans adopted since July 21, 1951, however styled, shall be deemed to be amendments of such 1951 plans.
- B. The location and boundaries of zoning districts established by this Chapter are also shown and maintained as part of the City’s Geographic Information System (GIS).

- C. The Zoning GIS layer constitutes the City of Newton's Official Zoning Map and is part of this Chapter. All notations, references and other information shown shall have the same force and effect as if fully set forth or described in this Chapter.
- D. Upon amendment by the Board of Aldermen per Sec. 7.2., the Director of Planning and Development is authorized to revise the Official Zoning Map. No unauthorized person may alter or modify the Official Zoning Map.
- E. The City must maintain digital and printed copies of the Official Zoning Map and maintain records of superseded official maps. All changes to the Official Zoning Map shall be identified by updating the original computer digital data of each change, together with the date of the change.
- F. A hard copy of the data and changes to the data will be kept by the Engineering Department; all revisions to hard copies will be numbered, dated and signed by the Director of Planning and Development.

2 – Land Use Tables

At the July 7, 2014 Zoning and Planning Committee meeting the Planning Department submitted proposed changes to the Land Use Table that would rename and consolidate land uses from the existing Zoning Ordinance in order to reduce conflicts, simplify the table, and make the land use tables and associated rules easier to read and apply. The table showing all of these changes can be found online at <http://www.newtonma.gov/gov/planning/lrplan/zoning/zoningref.asp>. These changes were developed in a way that did not allow for any substantive changes to the rules as they exist today and the Committee endorsed the changes as presented. Presented below are a set of proposed changes to the ordinance that would address existing problems in the ordinance that appear to be the unintended consequences of various amendments to the ordinance made over time.

Parks and Conservation Areas

Newton's Zoning Ordinance regulates parks and conservation areas, including playgrounds, playing fields, golf courses, and similar, in three areas. First, they are identified in the Public Use District, sec. 30-6, as allowed uses subject to site plan review or review via section 5-58 if owned by the City of Newton. Second, they are allowed in all districts according to sec. 30-5(a)(4) but only with site plan review. Finally, they are allowed in the Open Space/Recreation Districts under sec. 30-7(b)(2) and (5) subject only to standards for dimensional and parking controls with specific limitations on building size and occupancy.

The challenge here is one of conflicting requirements. As an example, if the City wanted to create a new park or conservation area, the requirements, at least according to zoning, would vary depending on which zoning district it was in, as per the table below:

Public Use District	Open Space District	All Other Districts
Site Plan Review or 5-58	Site Plan Review only and no Site Plan Review	Site Plan Review only

Solution: As per the July 7th meeting, staff have already proposed consolidating the conservation and outdoor recreation uses listed in the Open Space District under the broader Public Use category. For consistency, staff proposes that the Public Use District standard then be applied to this use for all districts such that site plan review or 5-58 review is required everywhere, depending on whether the proposal is private or City-owned. The standards limiting building size and occupancy in the Open Space District, found in 30-7(b)(6) would be found in the Public Use section of Article 6. Use Regulations under the heading 'Standards'. The language there would clearly indicate that, in the Open Space District, buildings or structures accessory to conservation areas, parks, and similar would be limited to the 700 square feet or 20 seats.

Given that public uses are allowed in all districts, the Committee also has the option to eliminate the Public Use District entirely or merge it into a modified Open Space District.

Cemeteries

Similar to parks and conservation areas, cemeteries are regulated in three different areas of the Existing Zoning Ordinance. First, they are allowed by special permit in all districts according to 30-5(b)(6). Public cemeteries are allowed by right with site plan review in the Public Use District and, by section 30-5(a)(4), also allowed in all districts with site plan review. Private cemeteries are allowed by-right with no site plan review in the Open Space/Recreation District.

Solution: Staff recommends that public cemeteries be allowed with site plan review or 5-58 review in all districts. Private cemeteries should be allowed by-right in the Open Space District and otherwise be allowed in all other districts by special permit.

ATMs

ATMs or Automated Teller Machines, were added as a new use in the Zoning Ordinance with the adoption of the Mixed Use 3 District. Typically, ATMs are accessory to banks and are sometimes found associated with other uses. ATMs may also be found as a stand-alone use; effectively a very small storefront containing nothing but one or two ATMs. As the term is undefined, staff believes the intention was to allow these stand-alone ATM storefronts and not to regulate ATMs associated with banks or other stores. The challenge arises that, once a use is identified as allowed within a given zoning district, it is not allowed in any other districts where it is not listed.

Solution: Staff proposes that ATMs be added as allowed uses in the business and mixed use zoning districts. Further, staff recommends that the use be renamed to Storefront ATM and a definition be created for this use so as to clearly indicate the intent to regulate non-accessory, stand-alone ATMs.

Bed & Breakfasts

Bed and Breakfast is a use that was added to the ordinance as part of the Mixed Use 4 District as part of a broad use category, "Lodging, including but not limited to bed and breakfast, hotel, motel." While this idea of creating use categories is a good one, and a strategy being used as part of Zoning Reform to make the Use Tables more useable, including bed and breakfast in a general lodging category may not be appropriate.

Bed and Breakfasts are very different than hotels and motels as they are frequently found in residential settings and they tend to be very small, frequently limited to a number of rooms less than the minimum for a hotel; in Newton's case, below six rooms. In the existing ordinance, notwithstanding the reference to them in MU4, Bed and Breakfasts are not a defined allowed use.

Solution: Staff recommends that Bed and Breakfast be added as a use allowed by special permit in residential districts with additional standards to be developed.

Defined. a lodging facility for overnight guests containing 6 rooms or less.

General Land Use Naming and Consolidations

As noted above, on July 7th staff presented a table listing every single land use as presented in the existing Zoning Ordinance and how each land use was proposed to be handled in the Phase 1 Zoning Ordinance. Generally, the intent is to place all land uses in the Land Use Tables and allow people to link away from there to the Use Regulation section where definitions and specific use standards can be found. The Zoning and Planning Committee offered its general endorsement of this set of changes but asked that a new column showing the language from the Use Regulation section be added to the document. This document is very large and can be found online at <http://www.newtonma.gov/gov/planning/lrplan/zoning/zoningref.asp>. Staff will be available to take any further questions or comments on this table.

NEXT STEPS

Editing and corrections of the Draft ordinance document are continuing. Staff is working with the consultant to have another draft addressing these changes available in time for public review in advance of a December public hearing.